UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION, a Washington corporation, Plaintiff, v. JOHN DOES 1 – 10 using IP address 173.11.224.197 Defendants.	No. 2:16-cv-00276 DECLARATION OF BRITTANY CARMICHAEL IN SUPPORT OF MICROSOFT'S MOTION FOR EXPEDITED DISCOVERY

I, Brittany Carmichael, declare as follows:

1. I am a Senior Paralegal employed by Microsoft Corporation ("Microsoft"). I work with Microsoft's Digital Crimes Unit, which is responsible for (among other things) investigating piracy of Microsoft software. I am over 18 and competent to make this declaration. I make this declaration based on my personal knowledge and my review of records Microsoft maintains in the ordinary course of business.

2. I am personally familiar with Microsoft's data and analysis methods associated with product key activations, which Microsoft refers to as "cyberforensics." Cyberforensics allows Microsoft to analyze billions of activations of Microsoft software and identify activation patterns and characteristics which indicate, more likely than not, that an Internet Protocol

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("IP") address associated with certain product key activations is an IP address through which unauthorized copies of Microsoft software are being activated.

3. Based on my knowledge and experience, some of the activation characteristics which are indicative of software piracy are the use of product keys (a) known to have been stolen from Microsoft's supply chain; (b) issued for use in one distribution channel that are being used in a different distribution channel; (c) provided by Microsoft through specific licensing programs or initiatives that are subsequently used by non-qualified individuals or entities; (d) used in a manner not authorized by the applicable license (such as product keys intended for educational institutions used by commercial entities); (e) activated more times than is authorized by the applicable software license; or (f) which have failed the activation process. Microsoft's cyberforensics routinely identify IP addresses engaging in many product key activations that satisfy at least one (and sometimes more) of these criteria.

4. Microsoft's cyberforensics have identified thousands of product key activations originating from the IP address 173.11.224.197 (the "Infringing IP Address"). According to publicly available data, the Infringing IP Address is presently under the control of Comcast Cable Communications ("Comcast"), an Internet Service Provider. Microsoft believes that Comcast has, in turn, assigned possession and control of the Infringing IP Address to either the Doe Defendants or to a downstream ISP who has assigned it to the Doe Defendants.

5. For an unknown period of time—but for at least the past three years—the Infringing IP Address has been used to activate several thousand Microsoft product keys. Almost all of these activations have involved voluntary contact and communication between one or more of the Doe Defendants and certain Microsoft activation servers, the vast majority of which are physically located in this judicial district. These activations have characteristics which I believe demonstrate, based on my knowledge and experience, that one or more of the Doe Defendants are using the Infringing IP Address to activate unauthorized copies of Microsoft's software.

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6. The Infringing IP Address has been used to activate copies of Microsoft Windows 8, Windows 7, Office 2010, Windows Server 2012, and Windows Server 2008 with product keys that have some or all of the following characteristics: (a) product keys known to have been stolen from Microsoft's supply chain; (b) product keys used more times than is authorized by the applicable software license; (c) product keys used by someone other than the authorized licensee; and (d) product keys activated outside of the region for which they were intended. Microsoft believes these activations constitute the unauthorized copying, distribution, and use of Microsoft software.

7. Despite reasonable efforts, including various investigative techniques, Microsoft has been unable to positively identify the Doe Defendants. At present, the best information Microsoft has for identifying the Doe Defendants is the Infringing IP Address and the dates and times the Doe Defendants used the Infringing IP Address to activate product keys in a manner consistent with software piracy.

8. To the best of my knowledge, the only reliable way Microsoft can determine the Doe Defendants' actual identities is by obtaining the subscriber information associated with the Infringing IP Address from the ISP who assigned the Infringing IP Address to the Doe Defendants. I am not presently aware of any other way by which Microsoft could reliably determine the identities of the Doe Defendants.

9. Based on my understanding, I believe Comcast has access to the subscriber information associated with the Infringing IP Address from records kept in the regular course of its business. It is my understanding that Comcast will not provide subscriber information to a third party without the consent of the subscriber or a court order.

10. If the Court grants leave for Microsoft to conduct expedited discovery, Microsoft intends to serve Comcast with a Rule 45 subpoena to obtain the subscriber information associated with the Infringing IP Address at various dates and times the alleged infringement occurred. If Comcast identifies another ISP (rather than a subscriber) as the entity

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to which it has assigned the Infringing IP Address, Microsoft intends to serve that downstream ISP (and any additional downstream ISPs) with a similar subpoena until the Doe Defendants can be sufficiently identified. I believe this process will allow Microsoft to reliably determine the proper identities of the Doe Defendants.

EXECUTED at Redmond, Washington this 25TH day of FEBRUARY, 2016.

BRITTANY CARMICHAEL

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